

**Release of Free and Reduced Price Eligibility Status for Use in  
the National Assessment of Education Progress**

**Purpose:**

This instruction sets forth the policy for release of economic status of students for use in the National Assessment of Education Progress (NAEP).

**Scope:**

Sponsors participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP).

**Definitions:**

Section 9(b)(2)(C)(iii) of the National School Lunch Act, as amended by Section 108 of Public Law 101-448, clearly authorizes release of free and reduced price school meal eligibility status of programs administered by the Department of Education.

Based on the following procedures which ensure that confidentiality is adequately protected, the Food and Consumer Service has authorized the release of students' free and reduced price eligibility status for use in the NAEP. However, school officials are not required to supply this information. *The decision to participate in this assessment is voluntary.*

**Description:**

The U.S. Department of Education (USDOE) has expressed a need for obtaining information on the general economic status of a student for use in the National Assessment of Education Progress (NAEP).

The Office of Education Research and Improvement has informed us that under the NAEP, information such as the student's sex, grade, birth date, booklet I.D., subject assessed, and eligibility for free or reduced price meal status is obtained during an assessment session at a school. After the assessment session is completed, the portion of the form that contains the student's name is torn off and left at the school. **Under no circumstances** does a student's name leave the school. Student confidentiality is protected, as well as the school's confidentiality since disclosure of any student or school information results in fiscal and criminal penalties under Title 5, Section 552a of the United States Code.

PLEASE NOTE: The National School Lunch Act limits the information that may be disclosed regarding the eligibility status of the child, unless the consent of the child's parent or guardian is obtained. Additionally, the law mandates a fine of not more than \$1000 or imprisonment of not

more than one year, or both to a person authorized to receive the information who divulges, discloses or uses the information in any other manner or to any extent not authorized by the law. Further, although the National School Lunch Act authorizes the release of free and reduced price school meal eligibility status for use in the NAEP, USDA has no authority to require school officials to do so.

**SOURCE:** MEMORANDUM DATED FEBRUARY 05, 1996, FROM THERESA BOWMAN, REGIONAL DIRECTOR, CHILD NUTRITION PROGRAMS, UNITED STATES DEPARTMENT OF AGRICULTURE, FOOD AND CONSUMER SERVICE.

## **MEMORANDUM**

To: Superintendents  
From: Sheila H. Elam, Director  
Division of School and Community Nutrition  
Date: February 23, 1996

Re: National Assessment of Education Progress (NAEP) and the release of free and reduced price eligibility status.

The Food and Consumer Service (FCS) of the United States Department of Agriculture (USDA) has met with officials from the United States Department of Education (USDOE) to discuss cooperation between those departments in serving low income children. The laws for several USDOE programs reference free and reduced price meal eligibility as a criterion for educational services or require that USDOE report information or provide services according to economic status, gender, race, and other categories. Schools officials may continue to provide aggregate data on children eligible for free and reduced price school meals.

Section 108 of Public Law 103-448 allows the use or disclosure of children's free and reduced price school meal eligibility status specifically to a person directly connected with the administration or enforcement of a federal education program. While FCS believes that the law intends programs under the United States Department of Education to have access to children's free and reduced price school meal eligibility status, we believe that we must proceed with caution since student confidentiality and household privacy are sensitive areas. Additionally, the law includes some discretion in implementation. Therefore, FCS is drafting a regulation to implement this disclosure provision. In the interim, FCS believes that school officials may cooperate with education officials collecting data for the National Assessment of Education Progress (NAEP).

NAEP is a congressionally mandated survey of the knowledge and skills of children in major learning areas taught in school. The survey's purpose is to gather information that will aid educators, legislators, and others in improving the educational experiences of children. NAEP procedures guarantee the anonymity of participants in the survey, student names are not recorded on the assessment booklets, and the names are not removed from the schools. The results of NAEP are reported on the national level and by region of the country not by State,

school district, or school. Results are also reported by gender, race/ethnicity, socioeconomic status, and other variables.

Under the procedures described by Department of Education officials, children's names are used only briefly to associate their test activity with their economic status. The student's names are then no longer needed and are separated from the test materials. Since FCS believes that the confidentiality of children eligible for free and reduced price meals is adequately protected, the school food service may disclose children's free and reduced price eligibility status to Department of Education officials administering the NAEP.

Please note and circulate the attached Policy regarding this issue to the appropriate school officials. This policy specifically addresses only the NAEP process at this time. Until further regulations or instructions are received by the FCS, this is the only program whereby children's names will be permitted to be released.

pc: Food Service Directors